

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

**FILED UNDER SEAL**

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL NO. 13-10200-GAO
	)	
DZHOKHAR TSARNAEV	)	

**SEALED MOTION TO COMPEL PRODUCTION OF GRAND JURY  
TESTIMONY AND/OR RECORDED STATEMENTS BY DEFENSE WITNESSES  
IN GOVERNMENT'S POSSESSION, CUSTODY, OR CONTROL**

Defendant, Dzhokhar Tsarnaev, by and through counsel, respectfully moves to compel the government to produce grand jury testimony and/or other recorded statements of defense witnesses in the possession, custody or control of the government that have not previously been produced. As grounds therefor, defendant states:

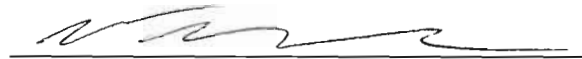
1. By letter dated April 9, 2015, the defendant requested that the government produce any grand jury transcripts and/or recorded statements in the government's possession, custody, or control of named defense witnesses that have not previously been produced.
2. The government has declined to produce the requested materials.
3. The Court should order production in the interests of justice and orderly trial management. Such statements likely contain exculpatory (mitigating) information and in any event should be produced since they may be used to impeach or refresh the memory of the witness. *See United States v. McMahon*, 938 F.2d 1501, 1504 (1st Cir.

1991) (“[I]f the defendant does call the witness at trial, and the witness’ trial testimony could be refreshed or impeached by the grand jury testimony, the defendant should have access to the earlier statements.”) (internal quotation marks and citation omitted).

Wherefore, the Court should order the requested relief.

Respectfully submitted,

DZHOKHAR TSARNAEV  
by his attorneys



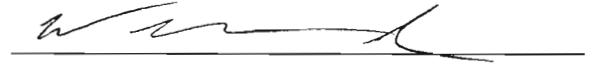
Judy Clarke, Esq. (CA Bar # 76071)  
CLARKE & RICE, APC  
1010 Second Avenue, Suite 1800  
San Diego, CA 92101  
(619) 308-8484  
JUDYCLARKE@JCSRLAW.NET

David I. Bruck, Esq.  
220 Sydney Lewis Hall  
Lexington, VA 24450  
(540) 460-8188  
BRUCKD@WLU.EDU

Miriam Conrad, Esq. (BBO # 550223)  
Timothy Watkins, Esq. (BBO # 567992)  
William Fick, Esq. (BBO # 650562)  
FEDERAL PUBLIC DEFENDER OFFICE  
51 Sleeper Street, 5th Floor  
(617) 223-8061  
MIRIAM\_CONRAD@FD.ORG  
TIMOTHY\_WATKINS@FD.ORG  
WILLIAM\_FICK@FD.ORG

**Certificate of Service**

I hereby certify that I have caused this document to be served by hand delivery upon counsel for the United States this 22d day of April, 2015.

A handwritten signature in black ink, appearing to be "W. J. ...", is written over a horizontal line.